

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS E. UNDERWOOD, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

CARPENTERS PENSION TRUST FUND—
DETROIT AND VICINITY, and TRUSTEES
OF CARPENTERS PENSION TRUST
FUND—DETROIT AND VICINITY,

Defendants.

Case No. 13-cv-14464
Honorable Laurie J. Michelson

ORDER

On October 14, 2014, the parties submitted a Stipulated Order Extending Time for Defendants to Respond to Plaintiffs' Motions for Attorney Fees and Extending Time for Defendants to Appeal September 15, 2014 Order. The Court requires supplemental briefing before the stipulated extension of time to appeal can be entered. Specifically, counsel are directed to address whether the Court has the authority to toll any deadline to appeal the September 15, 2014 Order.¹ Each side shall file one supplemental brief, no longer than ten pages, by Monday, October 20, 2014.

¹ It appears to the Court that all questions of liability were resolved by the September 15 order on the parties' cross-motions for summary judgment. But because the amount of damages has not been determined, the September 15 order was not a final order that may be appealed as of right. *See Liberty Mut. Ins. Co. v. Wetzel*, 424 U.S. 737, 744 (1976) ("The order, viewed apart from its discussion of Rule 54(b), constitutes a grant of partial summary judgment limited to the issue of petitioner's liability. Such judgments are by their terms interlocutory, see Fed. Rule Civ. Proc. 56(c), and where assessment of damages or awarding of other relief remains to be resolved have never been considered to be "final" within the meaning of 28 U.S.C. § 1291."); *Nagarajan v. Tennessee State Univ.*, 187 F.3d 637 (6th Cir. 1999) ("A judgment is generally not final for purposes of appeal when the assessment of damages has not yet been completed.").

The parties have also stipulated to extend Defendants' time to respond to the Motions for Attorney Fees. That extension is GRANTED. Defendants shall have until Friday, December 8, to respond to the Motions for Attorney Fees (Dkt. 31 and 33).

SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Dated: October 15, 2014

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on October 15, 2014.

s/Jane Johnson
Case Manager to
Honorable Laurie J. Michelson